

**BEFORE THE  
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

**In The Matter Of:**

**EJ MADISON, LLC,  
(U. S. DOT No. 1721106)**

**Petitioner**

**Docket No. FMCSA-2010-0112  
(Southern Service Center)**

**DECISION ON PETITION FOR REVIEW OF SAFETY RATING**

**1. *Background***

This matter comes before the Federal Motor Carrier Safety Administration (FMCSA) on an April 13, 2010 petition by EJ Madison, LLC (Petitioner) for administrative review of a conditional safety rating pursuant to 49 CFR 385.15. The conditional rating was assigned following a compliance review of Petitioner completed on or about February 10, 2010. It became effective on April 14, 2010.

The procedures for assigning a safety rating at the conclusion of a compliance review are set out in Appendix B to part 385. As pertinent, ratings are assigned for each of six factors, if applicable. The ratings for these individual factors then determine a carrier's overall safety rating according to a Safety Rating Table.<sup>1</sup> The ratings for factors one through five are assigned based on violations of acute regulations and patterns of noncompliance with critical regulations.<sup>2</sup> The rating for factor six, recordable accident rate, is determined by the number of recordable

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<sup>1</sup>Appendix B to 49 CFR part 385, section III A.(b).

<sup>2</sup>These regulations are identified in Appendix B to 49 CFR part 385, section VII.

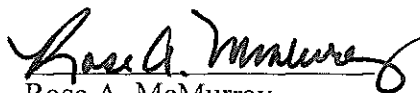
evidence that the violations cited in the compliance review have been corrected and advised

Petitioner to submit a Safety Management Plan that included:

“A description of EJ Madison, LLC’s accident prevention program, including at a minimum, counseling of drivers involved in recordable crashes and discussions of accident countermeasures; periodic safety meetings to discuss accident prevention techniques, accident countermeasures and defensive driving; disciplinary policy regarding multiple accidents and moving violations; remedial education of drivers having recordable crashes and a history of negligent driving; identification of drivers exhibiting dangerous or negligent driving behavior; and positive accident prevention measures.”

On August 12, 2010, Petitioner petitioned for review of the Field Administrator’s denial of its safety rating upgrade request.<sup>2</sup> Instead of addressing the Field Administrator’s findings regarding the inadequacy of its § 385.17 request, the petition essentially seeks reconsideration of my May 5, 2010 decision by submitting maintenance and repair records for the vehicle involved in the accident challenged in its April 13 petition. However, under § 385.15(f), the May 5, 2010 decision constitutes the final agency action, and part 385 of the Agency’s Rules of Practice does not permit petitions for reconsideration of such decisions. Inasmuch as Petitioner did not address the Field Administrator’s reasons for denying its § 385.17 request, it has not shown that the Field Administrator committed reversible error.

Accordingly, *It Is Hereby Ordered*, the petition for administrative review filed by EJ Madison, LLC is denied.



Rose A. McMurray  
Assistant Administrator  
Federal Motor Carrier Safety Administration

9.3.10

Date

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<sup>2</sup> Under 49 CFR 385.17(j), any motor carrier whose request for a rating change based on corrective action is denied may request administrative review under 49 CFR 385.15 within 90 days of the date of the denial letter.

**CERTIFICATE OF SERVICE**

This is to certify that on this 1<sup>th</sup> day of September, 2010, the undersigned mailed or delivered, as specified, the designated number of copies of the foregoing document to the persons listed below.

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